IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6015 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DECD RAMA MOTI THRO HIS WIDOW AKHAMBEN RAMA MOTI

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 6015 of 2000

MR YV SHAH for Petitioner No. 1

SERVED BY RPAD - (R) for Respondent No. 1

RULE SERVED for Respondents No. 1,4

RULE NOT RECD BACK for Respondent No. 2

MR MG NAGARKAR for Respondent No. 3

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 18/01/2002

ORAL JUDGEMENT

Heard learned advocate Mr. Shah for the petitioner and Mr. M.G. Nagarkar for the respondents. By way of this petition, the petitioner has challenged the order passed by the labour court, Godhra in Recovery Application No. 2 of 1991 dated 21st February, 2000 wherein the recovery application of the petitioner has been rejected by the labour court, Godhra. Learned advocate Mr. Shah has submitted that the concerned workman has already expired on 14th October, 1997 and now the widow is there, waiting for benefits available to her in accordance with the rules and regulations of the railway authority. Learned advocate Mr. Shah has submitted that the amount of gratuity, leave encashment and some amount of pension has not been paid by the railway authority to the petitioner. Mr. Nagarkar, learned advocate appearing for the respondents has submitted that the order passed by the labour court, Godhra is based upon the legal evidence on record before the labour court and the labour court has committed no error while rejecting the recovery application filed by the petitioner.

I have considered the submissions made by the learned advocates for the respective parties. In the facts and circumstances of the case, without entering into the merits of the matter and also without disturbing the order of the labour court passed in the recovery application, it is directed to the petitioner, Akhamben, widow of deceased Rama Moti to send a copy of the present petition alongwith the annexures thereto to the respondents no.1 and 2 within one month from the date of receipt of copy of this order. As and when such copy of the petition together with annexures thereto is received by the respondents no. 1 and 2, it is directed to them to treat this petition as a representation of the petitioner in respect of the claim of gratuity, leave encashment and pension and this grievance of the petitioner is required to be examined by the respondent no.1 and 2 in accordance with law and rules and regulations of the railway authority without being influenced by the order passed by the labour court which is under challenge in this petition. Respondents no.1 and 2 are required to take decision independently without being influenced by the labour court's order and to take independent decision whether the petitioner is entitled to any amount of gratuity, leave encashment and pension in accordance with the rules and regulations of the railway or not and if it is found that the petitioner is entitled to such amount, then, they shall have to pass

appropriate orders after verifying these aspects without being influenced by the earlier order of the labour court, within three months from the date of receipt of copy of the memo of petition from the petitioner. With these observations and directions, this petition is disposed of. Rule is discharged. There shall be no order as to costs.

18.1.2002. (H.K. Rathod,J.)
Vyas